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component that first receives the request and has responsive records (or in the instance of where no records exist, the component that first receives the request and is likely to have responsive records), or the component to which the Departmental FOIA Officer or component FOIA Officer assigns lead responsibility for responding to the request. Where a component's FOIA office determines that a request was misdirected within the Department, the receiving component's FOIA office shall route the request to the FOIA office of the proper component(s). Records responsive to a request shall include those records within the Department's possession and control as of the date the Department begins its search for them.

(b) *Consultations and referrals.* When a component receives a request for a record (or a portion thereof) in its possession that originated with another Federal agency subject to the FOIA, the component shall refer the record to that agency for direct response to the requester (see § 4.8 for additional information about referrals of classified information). In instances where a record is requested that originated with the Department and another Federal agency has a significant interest in the record (or a portion thereof), the component shall consult with that Federal agency before responding to a requester. When a component receives a request for a record (or a portion thereof) in its possession that originated with another Federal agency that is not subject to the FOIA, the component shall consult with that Federal agency before responding to the requester.

(c) *Notice of referral.* Whenever a component refers a record to another Federal agency for direct response to the requester, the component's FOIA Officer shall notify the requester in writing of the referral and inform the requester of the name of the agency to which the record was referred.

(d) *Timing of responses to consultations and referrals.* All consultations and referrals shall be handled in chronological order, based on when the FOIA request was received by the first Federal agency.

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(e) *Agreements regarding consultations and referrals.* Components may make agreements with other Federal agencies to eliminate the need for consultations or referrals for particular types of records.

[66 FR 65632, Dec. 20, 2001, as amended at 71 FR 31073, June 1, 2006; 79 FR 62559, Oct. 20, 2014]

§ 4.6 Time limits and expedited processing.

(a) *In general.* Components ordinarily shall respond to requests according to their order of receipt.

(b) *Initial response and appeal.* Unless the component and the requester have agreed otherwise, or when “unusual circumstances” exist as provided for in paragraph (d) of this section, a determination whether to comply with a FOIA request shall be made by components within 20 working days (*i.e.*, excluding Saturdays, Sundays, and legal public holidays) of the receipt of a request for a record under this part by the proper component identified in accordance with § 4.5(a). In instances involving misdirected requests that are re-routed pursuant to § 4.5(a), the response time shall commence on the date that the request is received by the proper component, but in any event not later than ten working days after the request is first received by any designated component. An administrative appeal, other than an appeal from a request made to the Office of the Inspector General, shall be decided within 20 working days of its receipt by the Office of the General Counsel. An administrative appeal from a request made to the Office of the Inspector General shall be decided within 20 working days of its receipt by the Office of the Inspector General Office of Counsel. The Department's failure to comply with the time limits identified in this paragraph constitutes exhaustion of the requester's administrative remedies for the purposes of judicial action to compel disclosure.

(c) *Clarification of request.* Components may seek a one-time clarification of a request for records under this part. The component's request for clarification must be in writing. When a

component seeks clarification of a request, the time for responding to a request set forth in § 4.6(b) is tolled until the requester responds to the clarification request. The tolled period will end when the component that sought the clarification receives a response from the requester. If a component asks for clarification and does not receive a written response from the requester within 30 calendar days from the date of the component's clarification request, the component will presume that the requester is no longer interested and notify the requester that the request will be closed.

(d) *Unusual circumstances.* (1) Components may extend the time period for processing a FOIA request only in "unusual circumstances," as described in paragraph (d)(2) of this section, in which the component shall, before expiration of the twenty-day period to respond, notify the requester of the extension in writing of the unusual circumstances involved and of the date by which processing of the request is expected to be completed. If the extension is for more than ten working days, the component shall provide the requester with an opportunity to modify the request or agree to an alternative time period for processing the original or modified request.

(2) For purposes of this section, *unusual circumstances* include:

(i) The need to search for and collect the requested agency records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are the subject of a single request; or

(iii) The need to consult with another Federal agency having a substantial interest in the determination of the FOIA request or among two or more components of the Department having substantial subject-matter interest in the determination of the request.

(3) If a component reasonably believes that multiple requests submitted by a requester, or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances, and the

requests involve clearly related matters, the component may aggregate them. Multiple requests involving unrelated matters will not be aggregated.

(e) *Multi-track processing.* (1) A component must use two or more processing tracks by distinguishing between simple and more complex requests based on the amount of work and/or time needed to process the request, including the amount of pages involved, and whether the request qualifies for expedited processing as described in paragraph (f) of this section.

(2) A component using multi-track processing may provide requesters in its slower track(s) with an opportunity to limit the scope of their requests in order to qualify for faster processing. A component doing so shall contact the requester by telephone, email, letter, or through the FOIAonline Web site, <http://foiaonline.regulations.gov>, whichever is the most efficient in each case.

(f) *Expedited processing.* (1) Requests and appeals shall be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) The loss of substantial due process rights;

(iii) A matter of widespread and exceptional media interest involving questions about the Government's integrity which affect public confidence; or

(iv) An urgency to inform the public about an actual or alleged Federal Government activity, if made by a person primarily engaged in disseminating information.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time. For a prompt determination, a request for expedited processing should be sent to the component listed in Appendix A to this part that maintains the records requested.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For

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example, a requester within the category described in paragraph (f)(1)(iv) of this section, if not a full-time member of the news media, must establish that he or she is a person whose primary professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category described in paragraph (f)(1)(iv) of this section must also establish a particular urgency to inform the public about the Government activity involved in the request—one that extends beyond the public's right to know about Government activity generally. The existence of numerous articles published on a given subject can be helpful to establishing the requirement that there be an "urgency to inform" the public on a topic. As a matter of administrative discretion, a component may waive the formal certification requirement.

(4) Within ten calendar days of its receipt of a request for expedited processing, the proper component shall decide whether to grant it and shall notify the requester of the decision. Solely for purposes of calculating the foregoing time limit, any request for expedited processing shall always be considered received on the actual date of receipt by the proper component. If a request for expedited processing is granted, the request shall be given priority and processed as soon as practicable, subject to § 4.11(i). If a request for expedited processing is denied, any appeal of that decision shall be acted on expeditiously.

[66 FR 65632, Dec. 20, 2001, as amended at 79 FR 62559, Oct. 20, 2014]

§ 4.7 Responses to requests.

(a) *Acknowledgment of requests.* Upon receipt of a request, a component ordinarily shall send an acknowledgement letter to the requester which shall provide an assigned request number for further reference and, if necessary, confirm whether the requester is willing to pay fees.

(b) *Interim responses.* If a request involves voluminous records or requires searches in multiple locations, to the extent feasible, a component shall provide the requester with interim re-

sponses consisting of fully releasable records.

(c) *Grants of requests.* If a component makes a determination to grant a request in whole or in part, it shall notify the requester in writing of such determination and disclose records to the requester promptly upon payment of any applicable fees. Records disclosed in part shall be marked or annotated to show the applicable FOIA exemption(s) and the amount of information deleted, unless doing so would harm an interest protected by an applicable exemption. The location of the information deleted shall also be indicated on the record, if feasible.

(d) *Adverse determinations of requests.* If a component makes an adverse determination regarding a request, it shall notify the requester of that determination in writing. An adverse determination is a denial of a request and includes decisions that: The requested record is exempt, in whole or in part; the request does not reasonably describe the records sought; the information requested is not a record subject to the FOIA; the requested record does not exist, cannot be located, or has previously been destroyed; or the requested record is not readily reproducible in the form or format sought by the requester. Adverse determinations also include denials involving fees or fee waiver matters or denials of requests for expedited processing.

(e) *Content of denial.* The denial letter shall be signed by an official listed in Appendix B to this part (or a designee), and shall include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reason(s) for the denial, including any FOIA exemption(s) applied by the component in denying the request;

(3) An estimate of the volume of any records or information withheld, by providing the number of pages or some other reasonable form of estimation. This estimate is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part, or if providing an estimate would harm an interest protected by an applicable FOIA exemption; and

(4) A statement that the denial may be appealed under § 4.10, and a list of

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